

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JARED S. HOERLE,

Defendant.

8:21-CR-231

**ORDER ADOPTING
MAGISTRATE JUDGE'S
FINDINGS AND RECOMMENDATION
ON PLEA OF GUILTY**

This matter is before the Court on the Magistrate Judge's Findings and Recommendation on a Guilty Plea, [Filing 41](#), recommending that the Court accept the defendant's plea of guilty. There are no objections to the findings and recommendation. Pursuant to [28 U.S.C. § 636\(b\)\(1\)\(C\)](#) and [NECrimR 11.2\(d\)](#), the Court has conducted a de novo review of the record and adopts the findings and recommendation of the Magistrate Judge.

The Court notes that at the change of plea hearing, the Magistrate Judge informed Defendant that the maximum fine he faces under Count II of the Indictment is \$250,000. However, Count II charges Defendant with violating [26 U.S.C. §§ 5841](#), 5861(d), and 5871, [Filing 1](#), which authorizes a maximum fine of \$10,000. *See* [26 U.S.C. § 5871](#) ("Any person who violates or fails to comply with any provision of this chapter shall, upon conviction, be fined not more than \$10,000 . . ."). Nonetheless, the Court finds the misstatement harmless because it did not affect Defendant's substantive rights. *See* Rule 11(h). Defendant's decision to plead guilty could not have been affected by the Magistrate Judge informing him that he faced a fine far greater than the one authorized in this case. *Cf. United States v. Molzen*, 382 F.3d 805, 807 (8th Cir. 2004) (holding failure to inform the defendant of restitution was harmless when the court warned the defendant of a potential fine larger than the amount of restitution ordered); *United States v. Electrodyne Sys. Corp.*, 147 F.3d 250, 253 (3d Cir. 1998) (holding error was harmless when the court informed the defendant of a maximum fine lower than the one authorized in the case and the court imposed a

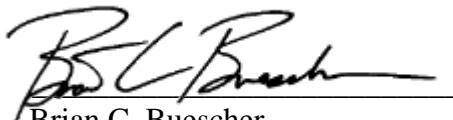
fine below both amounts). The Court further notes that both parties waived any objection to the Magistrate Judge's findings and recommendation. Accordingly,

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation on a Guilty Plea, [Filing 41](#), is adopted;
2. The defendant is found guilty. The plea is accepted. The Court finds that the plea of guilty is knowing, intelligent, and voluntary, and that a factual basis exists for the plea, and
3. This case shall proceed to sentencing.

Dated this 11th of August, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", written over a horizontal line.

Brian C. Buescher
United States District Judge